

AMENDED IN ASSEMBLY MARCH 10, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 138

Introduced by Assembly Member Hayashi

January 20, 2009

An act to ~~amend, repeal, and add~~ *amend* Section 5076 of, and to add ~~Section 5076.1~~ *Sections 5076.1 and 5076.2* to, the Business and Professions Code, relating to accountants.

LEGISLATIVE COUNSEL'S DIGEST

AB 138, as amended, Hayashi. Accounting firms: peer review.

Existing law provides for the licensing and regulation of certified public accountants and other licensees by the California Board of Accountancy. Existing law requires an accounting firm providing attest services, with certain exceptions, to complete a peer review every 3 years in order to renew its registration, if the board, prior to September 1, 2011, determines that a peer review program should be implemented and identifies the resources necessary for that implementation.

This bill would ~~repeal these provisions and~~ instead impose a peer review requirement for all accounting firms relative to accounting and auditing practice, which would be conducted by a board-recognized peer review program. The bill would require the board to adopt emergency regulations as necessary to implement the program. The bill would also require the board to appoint a peer review oversight committee. ~~The bill's provisions would become~~ *bill would specify that these provisions shall be* operative only if sufficient appropriations and hiring authority, as determined by the board, are provided in the Budget Act of 2010 to support these activities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 5076 of the Business and Professions Code is amended to read:

5076. (a) In order to renew its registration, a firm ~~providing attest services, other than a sole proprietor or a small firm as defined in Section 5000, shall complete a peer review within three years of the commencement of the peer review program and no, as defined in Section 5035.1, shall have a peer review report of its accounting and auditing practice accepted by a board-recognized peer review program no less frequently than every three years thereafter.~~

(b) For purposes of this article, the following definitions apply:

(1) “Peer review” means a study, appraisal, or review conducted in accordance with professional standards of the professional work of a licensee or registered firm by another licensee unaffiliated with the licensee or registered firm being reviewed. The peer review shall include, but not be limited to, a review of at least one attest engagement representing the highest level of service performed by the firm of a firm by an individual who has a valid and current license, certificate, or permit to practice public accountancy from this state or another state and is unaffiliated with the firm being reviewed, and may include an evaluation of other factors in accordance with requirements specified by the board in regulations.

(2) ~~“Attest services” include an audit, a review of financial statements, or an examination of prospective financial information, provided, however, “attest services” shall not include the issuance of compiled financial statements.~~

(2) “Accounting and auditing practice” includes any services that are performed using professional standards defined by the board in regulations.

(c) The board shall adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for the approval of peer review providers, and regulations establishing a peer review oversight committee.

~~(d) The board shall review and evaluate whether to implement the program specified in this section, and shall report its findings and recommendations to the Legislature and the department no later than September 1, 2011. If the board determines that the program specified in this section should be implemented, the board shall identify the resources necessary for implementation and recommend a date when the program shall commence.~~

~~(e) This section shall become inoperative upon a determination of the board that (1) an appropriation has been provided in the Budget Act of 2010 to fund the activities in Sections 2 and 3 of the act amending this section in the 2009–2010 Regular Session and (2) sufficient hiring authority has been granted to the board pursuant to a budget change proposal to provide staffing to implement those sections. Upon making that determination, the board shall notify the Secretary of State and post that information on its Internet Web site. This section shall be repealed on January 1 of the following year. requirements for board recognition of a peer review program, standards for administering a peer review, extensions of time for fulfilling the peer review requirement, exclusions from the peer review program, and document submission.~~

(d) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures as outlined in subdivision (c). The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations, and shall be replaced with final, permanent regulations within 120 days of their adoption.

(e) Nothing in this section shall prohibit the board from initiating an investigation involving a complaint of alleged violation of statutes or regulations against a firm or licensee.

(f) Any documents related to a firm's peer review required for submission as prescribed by the board in regulations shall not be a public record and shall be exempt from public disclosure.

1 (g) *Nothing in this section requires any firm to become a*
2 *member of any professional organization.*

3 ~~SEC. 2. Section 5076 is added to the Business and Professions~~
4 ~~Code, to read:~~

5 ~~5076. (a) In order to renew its registration, a firm, as defined~~
6 ~~in Section 5035.1, shall have a peer review report of its accounting~~
7 ~~and auditing practice accepted by a board-recognized peer review~~
8 ~~program no less frequently than every three years.~~

9 ~~(b) For purposes of this article, the following definitions apply:~~

10 ~~(1) "Peer review" means a study, appraisal, or review conducted~~
11 ~~in accordance with professional standards of the professional work~~
12 ~~of a firm by an individual who has a valid and current license,~~
13 ~~certificate, or permit to practice public accountancy from this state~~
14 ~~or another state and is unaffiliated with the firm being reviewed;~~
15 ~~and may include an evaluation of other factors in accordance with~~
16 ~~requirements specified by the board in regulations.~~

17 ~~(2) "Accounting and auditing practice" includes any services~~
18 ~~that are performed using professional standards defined by the~~
19 ~~board in regulations.~~

20 ~~(c) The board shall adopt regulations as necessary to implement,~~
21 ~~interpret, and make specific the peer review requirements in this~~
22 ~~section, including, but not limited to, regulations specifying the~~
23 ~~requirements for board recognition of a peer review program,~~
24 ~~standards for administering a peer review, extensions of time for~~
25 ~~fulfilling the peer review requirement, exclusions from the peer~~
26 ~~review program, and document submission.~~

27 ~~(d) The board shall adopt emergency regulations in accordance~~
28 ~~with the Administrative Procedure Act (Chapter 3.5 (commencing~~
29 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~
30 ~~Government Code) to establish policies, guidelines, and procedures~~
31 ~~as outlined in subdivision (c). The adoption of the regulations shall~~
32 ~~be considered by the Office of Administrative Law to be necessary~~
33 ~~for the immediate preservation of the public peace, health and~~
34 ~~safety, or general welfare. The emergency regulations shall be~~
35 ~~submitted to the Office of Administrative Law for filing with the~~
36 ~~Secretary of State and publication in the California Code of~~
37 ~~Regulations, and shall be replaced with final, permanent regulations~~
38 ~~within 120 days of their adoption.~~

1 ~~(e) Nothing in this section shall prohibit the board from initiating~~
2 ~~an investigation involving a complaint of alleged violation of~~
3 ~~statutes or regulations against a firm or licensee.~~

4 ~~(f) Any documents related to a firm's peer review required for~~
5 ~~submission as prescribed by the board in regulations shall not be~~
6 ~~a public record and shall be exempt from public disclosure.~~

7 ~~(g) Nothing in this section requires any firm to become a~~
8 ~~member of any professional organization.~~

9 ~~(h) This section shall become operative upon a determination~~
10 ~~of the board that (1) an appropriation has been provided in the~~
11 ~~Budget Act of 2010 to fund the activities in this section and Section~~
12 ~~5076.1 and (2) sufficient hiring authority has been granted to the~~
13 ~~board pursuant to a budget change proposal to provide staffing to~~
14 ~~implement these sections. Upon making that determination, the~~
15 ~~board shall notify the Secretary of State and post that information~~
16 ~~on its Internet Web site.~~

17 ~~SEC. 3.~~

18 *SEC. 2.* Section 5076.1 is added to the Business and Professions
19 Code, to read:

20 5076.1. (a) The board shall appoint a peer review oversight
21 committee of certified public accountants of this state in good
22 standing to act as an advisory committee to provide
23 recommendations to the board on any matter upon which it is
24 authorized to act to ensure the effectiveness of mandatory peer
25 review.

26 (b) The committee shall have the authority to request any
27 information from a board-recognized peer review program provider
28 deemed necessary to ensure the provider is administering peer
29 reviews in accordance with the standards adopted by the board in
30 regulation. Failure of a board-recognized peer review program
31 provider to respond to the committee shall result in referral by the
32 committee of the provider to the board for further action.

33 (c) The members of the committee shall be appointed to ~~one-year~~
34 *two-year* terms and may serve a maximum of ~~eight~~ *four* consecutive
35 terms.

36 ~~(d) This section shall become operative upon a determination~~
37 ~~of the board that (1) an appropriation has been provided in the~~
38 ~~Budget Act of 2010 to fund the activities in this section and Section~~
39 ~~2 of the act adding this section in the 2009-2010 Regular Session~~
40 ~~and (2) sufficient hiring authority has been granted to the board~~

~~pursuant to a budget change proposal to provide staffing to
implement these sections. Upon making that determination, the
board shall notify the Secretary of State and post that information
on its Internet Web site.~~

*SEC. 3. Section 5076.2 is added to the Business and Professions
Code, to read:*

*5076.2. The provisions of Sections 5076 and 5076.1 shall only
be operative if, commencing July 1, 2010, there is an appropriation
from the Accountancy Fund in the annual Budget Act to fund the
activities in those sections and sufficient hiring authority is granted
pursuant to a budget change proposal to the board to provide
staffing to implement those sections.*